

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

BOBBY M. BERRY §
VS. § CIVIL ACTION NO. 1:06cv537
BRAD LIVINGSTON §

MEMORANDUM ORDER REGARDING TRANSFER

Petitioner Bobby M. Berry, an inmate confined at the Bartlett State Jail, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

Discussion

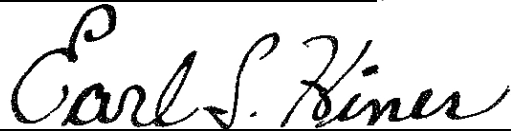
During 1990, in the 363rd District Court for Dallas County, Texas, petitioner was convicted and sentenced to a term of twenty years confinement in the Texas Department of Criminal Justice. Petitioner was subsequently released on parole. However, on July 8, 2005, petitioner's parole status was revoked. Petitioner alleges he was denied due process during the revocation process.

Pursuant to 28 U.S.C. § 2241(d), a petitioner may bring his petition for writ of habeas corpus in the district court for the district wherein such person is in custody or in the district court for the district within which he was convicted. Section 2241(d) further provides that the district court in the exercise of its discretion may transfer the action to the other district in the furtherance of justice.

Petitioner is currently confined at the Bartlett State Jail in Bartlett, Texas. Bartlett is located in Williamson county which is

within the jurisdictional boundaries of the United States District Court for the Western District of Texas. Petitioner was convicted in Dallas county which is in the Northern District of Texas. Accordingly, jurisdiction in this court is not proper. However, under 28 U.S.C. § 1404(a), for the convenience of parties and witnesses and in the interest of justice, a district court may transfer any civil action to any other district or division where it could have been brought. Such a transfer may be done *sua sponte* and is reviewable only for an abuse of discretion. *Mills v. Beech Aircraft Corp.*, 886 F.2d 758, 761 (5th Cir. 1989). Therefore, it is the opinion of the undersigned that this petition should be transferred to the United States District Court for the Northern District of Texas, Dallas Division. An Order of Transfer so providing shall be entered in accordance with this Memorandum Order.

SIGNED this 28 day of September, 2006.

A handwritten signature in black ink, reading "Earl S. Hines", written over a horizontal line.

EARL S. HINES
UNITED STATES MAGISTRATE JUDGE